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## KENTUCKY V. KING, 131 S.CT. 1849

Decided May 16

**ISSUE:** Does lawful police action impermissibly create exigent circumstances which precludes warrantless entry?

**HOLDING:** No. The Court recognized that the presumption for a search warrant under the Fourth Amendment “may be overcome in some circumstances” and that the “warrant requirement is subject to certain reasonable exceptions.” The exigent circumstances exception has been “well-recognized” when the “exigencies of the situation make the needs of law enforcement so compelling that [a] warrantless search is objectively reasonable under the Fourth Amendment.” The Court detailed the various situations that justified such searches and noted that “what is relevant here is the need ‘to prevent the imminent destruction of evidence,’ which has long been recognized as sufficient justification for a warrantless search.”

However, “lower courts have developed an exception to the exigent circumstances rule, the so-called ‘police-created exigency’ doctrine.” In such situations, “police may not rely on the need to prevent destruction of evidence when that exigency was ‘created’ or ‘manufactured’ by the conduct of the police, but agreed that, “in some sense, the police always create the exigent circumstances.”

The Court held that the exigency justified the warrantless search of the apartment, reversed the decision of the Kentucky Supreme Court and remanded the case for further proceedings.

## SNYDER V. PHELPS, 131 S.CT. 1207

Decided March 2

**ISSUE:** Does the First Amendment allow peaceful picketing at a funeral, when the picketing does not directly interfere with the funeral?

**HOLDING:** Yes. The Court began by noting that “whether the First Amendment prohibits holding the Westboro protesters liable for its speech in this case turns largely on whether that speech is of public or private concern, as determined by all the circumstances of the case.” The First Amendment is based upon the “principle that debate on public issues should be uninhibited, robust and wide-open.” Speech that concerns “public affairs is more than self-expression; it is the essence of self-government,” and “occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.”

The Court concluded that:

Westboro believes that America is morally flawed; many Americans might feel the same about Westboro. Westboro’s funeral picketing is certainly

hurtful and its contribution to public discourse may be negligible. But Westboro addressed matters of public import on public property, in a peaceful manner, in full compliance with the guidance of local officials. The speech was indeed planned to coincide with Matthew Snyder’s funeral, but did not itself disrupt that funeral, and Westboro’s choice to conduct its picketing at that time and place did not alter the nature of its speech.

Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow, and — as it did here — inflict great pain. On the facts before us, we cannot react to that pain by punishing the speaker. As a nation we have chosen a different course — to protect even hurtful speech on public issues to ensure that we do not stifle public debate. That choice requires that we shield Westboro from tort liability for its picketing in this case.

The decision of the U.S. Court of Appeals for the Fourth Circuit was affirmed, dismissing the action.

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